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EXAMINER

PENG, FRED H

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/826,183	Applicant(s) RELAN ET AL.	
	Examiner FRED PENG	Art Unit 2426	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 September 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2 and 4-37 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2 and 4-37 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 09/02/2008 have been fully considered but they are not persuasive.

The Applicant argues on page 10 lines 17-18 of Remarks dated on 09/02/2008 that the cited reference Lawler does not disclose a requested corresponding bandwidth. Further argues that the server of Lawler is free to choose any bandwidth for storing or transmitting the programming, as opposed to responding to a bandwidth request. Indeed, Lawler makes no explicit references to selecting bandwidth.

The Examiner agrees with applicant's arguments that Lawler makes no explicit references to selecting bandwidth. However, based on the broadest interpretation of the claim in light of the specification, "an associated requested corresponding bandwidth to each of the pluralities of STBs" can be interpreted broadly as "an associated requested multimedia channel with corresponding bandwidth to each of the pluralities of STBs"; hence the limitations is anticipated by Lawler.

In order to distinguish the pending invention from Lawler, further distinguish language of limitations are recommended.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-2, 4, 8-10, 13, 18, 20, 22-26, 29, 34 and 36 are rejected under 35 U.S.C. 102(e) as being anticipated by Lawler et al (US 5,758,259).

Regarding Claim 1, Lawler discloses a multimedia distribution network (FIG.1) comprising a plurality of set-top-boxes (STBs) (20) adapted to request a multimedia channel, the network comprising:

a content server (202a, 202b);

a distribution unit (210, 212); wherein the distribution unit is adapted to independently transmit on-demand a requested multimedia channel and an associated requested corresponding bandwidth to each of the plurality of STBs (Col 10 lines 53-58; Col 5 lines 11-15; requested still image, video clip play in the preview area or full motion picture in the full screen all have associated corresponding bandwidth; Col 3 line 63 – Col 4 line 26; requested analog or digital television channel or digital message all have associated corresponding bandwidth); and

a use meter (202a), the use meter is adapted to monitor channel requests and evaluate information associated with the channel requests to determine viewing habits and subscriber interests of viewers for each of the plurality of STBs (FIG.5; Col 7 lines 35-61; Col 10 lines 45-50).

Regarding Claim 2, Lawler further discloses the content server is adapted to receive and manage a plurality of multimedia transmissions from at least one satellite receiver, the plurality of multimedia transmissions each comprising a plurality of multimedia channels (Col 11 lines 12-17).

Regarding Claim 4, Lawler further discloses the distribution unit is adapted to independently transmit on-demand a requested multimedia channel to each of the plurality of STBs (Col 10 lines 53-58).

Regarding Claim 8, Lawler further discloses the distribution unit is adapted to communicate with each of the plurality of STBs via one of a wire or wirelessly (Col 3 lines 53-61), the distribution unit comprises a plurality of transmission heads (FIG.1, elements 214, 210, 204), each of the transmission heads comprising at least one of mechanical, electrical, and electronic

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switches and relays (208, 212) adapted to maintain continuous communication with each of the STBs at a plurality of end-user locations.

Regarding Claim 9, Lawler further discloses the distribution unit is adapted to communicate with each of the plurality of STBs via one of a wireless receiver, a wired receiver, an optical receiver, a wireless transmitter, an optical transmitter, and a wired transmitter (FIG.1, elements 210, 218).

Regarding Claim 10, Lawler further discloses a subscriber database memory storing subscriber information for each of a plurality of end-user subscribers, the subscriber database memory comprising at least one of a listing of channels subscribed, STB identification information, subscriber spending limits, subscriber modifiable information, and subscriber identity information for authentication (FIG.5, element 126).

Regarding Claims 13 and 29, Lawler further discloses multimedia information is communicated to the STB via one of a cable, an optical fiber, and wirelessly (Col 3 lines 53-62).

Regarding Claims 18 and 34, Lawler further discloses a subscriber database stores previous subscriber information and settings for subscribers not currently subscribed (FIG.6, element 142; previously viewed old program information) to a multimedia information package offered by the network (FIG.6, element 146; offer new programming package).

Regarding Claims 20 and 36, Lawler further discloses the content server is adapted to select and transmit advertisements targeted based upon a user profile stored in the subscriber database, wherein targeted advertisements comprise advertisements corresponding to at least one of a subscriber personal information, a subscriber employment information, a subscriber

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channel viewing habits, and determined subscriber interests (FIG.6, FIG.3B; suggested programming, like national preference, is advertisements).

Regarding Claim 22, Lawler discloses a set-top-box (STB) (FIG.2) adapted to request a multimedia channel from a multimedia distribution network, the STB comprising:

a processor (66) for processing and managing channel requests (FIG.5, element 124), bandwidth requests, and multimedia channel information (Col 4 lines 17-26; selection of analog or digital channels or application information suggesting bandwidth requests since those channels have different bandwidth associated with it; i.e., analog requires 6 MHz, digital requires about one quarter of analog channel and digital message requires much less);

an audio decoder (74; inherent with video) for decoding audio information received via an encoded multimedia channel transmission;

a video decoder (74) for decoding video information received via an encoded multimedia channel transmission;

a data decoder (62b) for decoding data from one of the network and the Internet;

a transmitter (62c) for transmitting channel requests to the multimedia distribution network; and

a receiver (62c) for receiving multimedia channel information and messages associated with the channel requests.

Regarding Claim 23, Lawler further discloses an antenna for wirelessly communicating with a multimedia distribution unit in the multimedia distribution network (Col 3 lines 53-59; satellite is wireless communication).

Regarding Claim 24, Lawler further discloses an antenna for wired connection for communicating with a multimedia distribution unit in the multimedia distribution network (Col 3 lines 10-13; Cable is wired connection).

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Regarding Claim 25, Lawler further discloses a combination audio/video decoder unit (74, audio is inherently included with video decoder).

Regarding Claim 26, Lawler further discloses a combination of transmitter/receiver unit (62c, network interface includes both transmission and receiving).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 5-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lawler et al (US 5,758,259) in view of Eldering et al (US 2007/0157231).

Regarding Claims 5 and 6, Lawler further discloses a use memory, the use memory is adapted to store monitored channel request information corresponding to each of the plurality of STBs for evaluation (Col 7 lines 62-67), the use memory is also adapted to record a length of viewing time corresponding to each channel request (Col 7 lines 47-50; viewing more than a minimum threshold amount of time suggesting record a length of viewing time).

Lawler is silent about the use memory is also adapted to record the bandwidth consumed corresponding to each respective channel request.

In an analogous art, Eldering discloses record the bandwidth consumed corresponding to each respective channel request (Para 18).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Lawler's system to include record the bandwidth consumed

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corresponding to each respective channel request, as taught by Eldering to make a better use of bandwidth.

Regarding Claim 7, Lawler further discloses the user logs comprising at least one of subject matter associated with the viewed programs (FIG.5, element 130).

6. Claims 11-12 and 27-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lawler et al (US 5,758,259) in view of Ellis et al (US 2006/0140584).

Regarding Claims 11, 27, Ellis discloses each STB is adapted to permit a subscriber end-user to unsubscribe to subscribed programming channels by selecting a corresponding response from an interactive menu displayed by the STB on an end-user display apparatus, wherein the selected response is transmitted to a network component for processing (Para 333 lines 10-18).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Lawler's system to include a permission for a user to cancel an order, as taught by Ellis to provide convenient service for the users.

Regarding Claims 12, 28, Ellis discloses each STB is adapted to permit a subscriber end-user to unsubscribe to view information stored in a subscriber memory database corresponding to the subscriber end-user, and the STB is adapted to permit the subscriber end-user to view at least one of end-user preferences, subscription status, collected statistics, and viewing habits on an end-user display apparatus on-demand, wherein the information is transmitted to the STB from a network component (FIG.43).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Lawler's system to include a permission for a user to view subscription status, as taught by Ellis to provide convenient service for the users.

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7. Claims 14-17, 30-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lawler et al (US 5,758,259) in view of Gill et al (US 2002/0083451) and Shioda et al (US 6,484,318).

Regarding Claims 14, 30, Gill discloses STB is adapted to detect whether an end-user display apparatus is one of active and inactive, the STB is also adapted to transmit a message to the network, the message indicating whether the display apparatus is one of active and inactive (Para 66).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Lawler's system to include a detection of an inactive display apparatus, as taught by Gill as part of viewers monitoring process.

Shioda further discloses termination of transmission line if the line is not used (Col 16 lines 38-42).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the combined system of Lawler and Gill to include termination of transmission line if the line is not used, as taught by Shioda to save the transmission capacity for other users.

Regarding Claims 15, 31, Gill further discloses detecting whether the end-user display apparatus is one of active and inactive comprises evaluating at least one component of the end-user display apparatus by the STB (Para 76, issue an on/off command to turn-off power).

Regarding Claims 16, 32, Gill discloses STB is adapted to determine whether an end-user is physically viewing transmitted multimedia information, wherein upon determining that the end-user is not physically viewing the transmitted multimedia information, the STB transmits a message to the network indicating that the end-user is not physically viewing the multimedia information (Para 76).

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Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Lawler's system to include a detection of viewer's actual viewing, as taught by Gill to provide more accurate user's profile data.

Shioda further discloses termination of transmission line if the line is not used (Col 16 lines 38-42).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the combined system of Lawler and Gill to include termination of transmission line if the line is not used, as taught by Shioda to save the transmission capacity for other users.

Regarding Claims 17, 33, Gill further discloses determining whether an end-user is physically viewing the transmitted multimedia information comprises prompting the end-user to interact with the STB (Para 76).

8. Claims 19, 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lawler et al (US 5,758,259) in view of Hoang (US 2003/0051249).

Regarding Claims 19, 35, Lawler discloses a subscriber database stores user preferences for value added services (Col 5 lines 8-16).

Lawler is silent about different service levels to determine a different amount of advertisements to be displayed.

In an analogous art, Hoang discloses different service levels to determine a different amount of advertisements to be displayed (Para 72).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Lawler's system to include different service levels to determine a different amount of advertisements to be displayed, as taught by Hoang to add additional value for advertisement reference.

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9. Claims 21, 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lawler et al (US 5,758,259) in view of Ellis (US 2007/0124763).

Regarding Claims 21, 37, Ellis discloses the content server is adapted to transmit a message to the STB informing an end-user that a selected channel is unavailable for access due to one of unavailability of the requested channel due to the requested channel being restricted channel to select end-users (FIG.11; Para 84; message is created for channel lock based on parental control).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Lawler's system to include a message for channel restriction because of program ratings, as taught by Ellis to provide a more user friendly interface.

Conclusion

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to FRED PENG whose telephone number is (571)270-1147. The examiner can normally be reached on Monday-Friday 09:00-18:30.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vivek Srivastava can be reached on (571) 272-7304. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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